



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20462

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SEC. 101

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SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Ann Marie Terzaken
Associate General Counsel for Enforcement

Kathleen Guith
Deputy Associate General Counsel for Enforcement

BY: Julie K. McConnell *JKM*
Assistant General Counsel

Elena Paoli *EP*
Attorney

SUBJECT: MUR 5924 – Recommendation to Accept Pre-Probable Cause Conciliation Agreement with Mark Nguyen and Update on Tan Nguyen

Attached is a proposed conciliation agreement for Mark Nguyen. The agreement would settle the violation resulting from Mark Nguyen's excessive in-kind contribution to the congressional campaign committee of Tan Nguyen (not related) in the form of a letter communication that was coordinated with Tan Nguyen. The Commission previously found reason to believe that Mark Nguyen knowingly and willfully violated 2 U.S.C. § 441a(a)(1) when he paid for the letter, which was sent to Latino immigrants and warned about potential criminal penalties for voting.

The Commission also found reason to believe that Tan Nguyen knowingly and willfully violated 2 U.S.C. §§ 441a(f) and 441d(a) in connection with the letter and that his committee violated 2 U.S.C. §§ 434(b), 441a(f) and 441d(a).

Tan Nguyen's trial is scheduled for

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August 4, 2009, and he has declined to engage in conciliation discussions with us until its conclusion. Because we do not believe it would be a prudent use of enforcement resources to proceed to probable cause at this time, we plan to hold this part of the case in abeyance, subject to an agreement to toll the statute of limitations and to conciliate in good faith at the appropriate time. Thus, we do not recommend closing MUR 5924 at this time.

RECOMMENDATIONS:

1. Accept the attached conciliation agreement as to Mark Nguyen.
2. Approve the appropriate letter.

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